

Tax Short Cuts - English

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Freedom of Information Amendment Act MoF - Ministerial Draft

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On 12 May 2025, the MoF submitted the ministerial draft of the Freedom of Information Amendment Act MoF (Informationsfreiheitsanpassungsgesetz BMF) to the National Council.

As of 1 September 2025, Sec 20/3 of the Federal Constitutional Law (Bundes-Verfassungsgesetz) will cease to constitute the constitutional basis for the confidentiality of administrative bodies. At the same time, the Freedom of Information Act (Informationsfreiheitsgesetz; Federal Law Gazette I No. 5/2024) enters into force.

The Federal Fiscal Code (Bundesabgabenordnung, Sec 48a et seq.) will be amended to limit the duty of confidentiality to the constitutional minimum and will more closely link it to data protection law. The duty of confidentiality under tax law shall be maintained.

Amendments are also planned for other laws, such as the Customs Law Implementation Act (Zollrechts-Durchführungsgesetz), the Gambling Tax Act (Glücksspielgesetz) and the Financial Criminal Act (Finanzstrafgesetz).

The draft can be accessed via the following link (German version only):
https://www.parlament.gv.at/dokument/XXVIII/ME/27/fname_1687820.pdf



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Budget Restructuring Measures Act 2025 Part II published in the Federal Law Gazette

Budget Restructuring Measures Act 2025 Part II

On 30 May 2025, the Budget Restructuring Measures Act 2025 Part II (Budgetsanierungsmaßnahmengesetz 2025 Teil II) was published in the Federal Law Gazette I No. 20/2025. There were no significant changes between the government bill and the adopted amendments to the law (see Tax Short Cuts No. 11/2025 dated 20 May 2025 on the government bill).

The law can be accessed via the following link (German version only):
https://www.ris.bka.gv.at/Dokumente/BgblAuth/BGBLA_2025_I_20/BGBLA_2025_I_20.pdfsig

ECJ rejects Federal Fiscal Court referral on the state aid nature of the VAT exemption for intermediary bank services as inadmissible

Value Added Tax Act

In its decision of 5 May 2025, the ECJ rejected the Austrian Federal Fiscal Court's (Bundesfinanzgericht, BFG) referral on the state aid character of the VAT exemption for intermediary bank services pursuant to Sec 6/1/28 sentence 2 of the Austrian Value Added Tax Act (Umsatzsteuergesetz, UStG; decision of the BFG dated 28 June 2024, RE/7100001/2024, see Tax Short Cuts No. 14/2024 dated 11 July 2024) as inadmissible.

According to the ECJ, the referral does not meet the requirements of Article 94 of the Rules of Procedure of the Court of Justice. The description of the subject matter of the dispute and the relevant facts of the main proceedings is too brief and incomplete, and it is not apparent from the order for reference that there is a connection between the question of exemption and the subject matter of the main proceedings. It is not apparent to what extent the question referred for a preliminary ruling is necessary for the referring court to decide the legal dispute. However, the ECJ emphasizes at the same time that the BFG remains free to submit a new request for a preliminary ruling and to provide the ECJ with all the information necessary to enable it to give a ruling.

Caution: Despite this decision, the risk of state aid in connection with the application of Sec 6/1/28 sentence 2 of the UStG in periods prior to 2025 is not fully over yet. Not only is the referring BFG free to revise the ECJ referral in order to comply with the requirements of the Rules of Procedure, also the European Commission could initiate state aid proceedings on its own initiative. In addition, a referral to the ECJ could be made in another case currently suspended before the Austrian Administrative Court (14 January 2025, Ra 2023/13/0029), which

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specifically concerns the interpretation of the intermediary bank exemption. Hence, further developments remain to be seen.

VAT Refund for Non-EU businesses until 30 June 2025

Value Added Tax Act

Businesses without a registered office or permanent establishment in the EU can submit a VAT refund application for the year 2024 to the Austrian tax office (Finanzamt Österreich) until 30 June 2025.

The application must include all original incoming invoices with Austrian VAT and confirmation of business from the country of residence. Applications submitted after the statutory deadline will not be accepted by the Austrian authorities.

Austrian businesses who purchased supplies or other services subject to VAT in other EU member states in the calendar year 2024 can still apply for a refund of the related VAT until 30 September 2025.

ECJ on the VAT treatment of lump-sum loss compensation payments

Value Added Tax Act

In its decision of 8 May 2025 in Case C-615/23, *Dyrektor Krajowej Informacji Skarbowej*, the ECJ clarified that lump-sum loss compensation payments do not constitute third-party remuneration and therefore do not increase the VAT assessment basis. In the Polish case, a passenger transport company received compensation payments that were not linked to the ticket price and were primarily intended to cover financial losses.

According to the ECJ, a compensation payment is no taxable third-party consideration if it does not directly affect the price of the initial service, does not benefit clearly identifiable persons, or is provided without taking into account the identity and number of users. The decision has practical relevance for companies receiving subsidies and should be taken into account when establishing subsidy agreements.

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